

**CALIFORNIA COASTAL COMMISSION**

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# Th7c

July 18, 2002

TO: Commissioners and Interested Parties

FROM: Charles Lester, Acting District Director  
Steve Monowitz, Coastal Planner

SUBJECT: **SAN LUIS OBISPO COUNTY LOCAL COASTAL PROGRAM MAJOR AMENDMENT NO. 1-01, Part B: Clarifications, Procedural, and Miscellaneous Changes.** For public hearing and Commission action at its meeting of August \_\_, 2002 to be held at the Embassy Suites Hotel (333 Madonna Road) in San Luis Obispo.

## **SUMMARY OF STAFF REPORT**

### **DESCRIPTION OF AMENDMENT REQUEST**

San Luis Obispo County is proposing to amend the implementation portion of its Local Coastal Program by revising the Coastal Zone Land Use Ordinance ("CZLUO", Title 23 of the San Luis Obispo County Code). The amendment submittal contains a wide variety of changes to the CZLUO, many of which are minor changes that clarify existing standards and update cross-references (for example, references to the "California Administrative Code" have been changed to "California Code of Regulations"). The substantive changes proposed by the amendment include:

Revisions to Appeal Procedures. The amendment proposes to revise LCP language regarding appealable development and grounds for appeal, and to include a new provision that allows appellants to withdraw appeals.

Changes to the Minor Use Permit Review and Approval Process. The amendment proposes changes to the Minor Use Permit/Coastal Development Permit (MUP) review and approval process that would: revise the date by which a Public Hearing can be requested; allow the Planning Director to continue action on a MUP where no public hearing has been requested; and, change the date on which the Planning Director must send notice of the County's Final Action.

Changes to the Maximum Duration of a Land Use Permit required for a Land Divisions.

The amendment proposes to allow a maximum of five (rather than three) 12-month time extensions for land use permits for divisions of land.

Changes to Parcel Size Standards. The amendment proposes to change the way in which net parcel size is measured by including portions of the parcel that are dedicated for sidewalks and landscaping or equestrian trails. The amendment also proposes to exempt the creation of new parcels intended to protect historic structures from minimum parcel size standards.



**California Coastal Commission**

Proposed Changes to Standards for Accessory Uses. The amendment proposes to update standards for structures and uses that are accessory to the primary use of the site, including home offices and occupations, caretaker units, and temporary dwellings and offices. With respect to home offices and occupations, the amendment proposes to incorporate new provisions that: allow the construction of detached home offices, provided that such structures comply with the standards for guesthouses; establish standards for home occupations conducted within a garage; and, recognize counseling services as an allowable home occupation. With respect to caretaker units, the amendment proposes to include standards that: clarify caretaker units associated with agricultural uses must comply with standards for farm support quarters; and, require caretaker units within Residential Rural and Residential Suburban land use designations to comply with standards for secondary dwellings. Finally, with respect to temporary residences and offices (i.e., temporary structures that enable residents and contractors to remain on site during construction of an approved development), the amendment proposes to incorporate new standards that: limit temporary dwellings within urban areas to recreational vehicles with a maximum length of 29 feet; ensure adequate on-site or municipal water and sewer service; require compliance with setback standards; and, limit occupancy to the property owner, permittee, contractor, or employee directly related to the approved construction project.

Proposed Changes to Setback Standards. The amendment proposes to revise setback requirements in a manner that: allows a front setback of 15 feet (rather than 25 feet) for new residences in areas with improved sidewalks and street landscaping; and, requires side setbacks for development on rural corner lots, agricultural accessory buildings, and ground storage facilities for flammable liquids to comply with uniform building and fire codes.

Proposed Changes to Standards Regarding Lighting, Right of Way Improvements, and Utilities. The amendment proposes to revise standards for lighting in a manner that limits the height of exterior lighting to the tallest building that exists on the site (rather than the tallest building that could be allowed), and requires street lighting to minimize light pollution. The amendment also proposes to revise standards requiring development that increases property value by over 25% to install curb, gutters, and sidewalks by allowing a current appraisal (rather than the assessment roll) to be used in the evaluation of property value. With respect to utilities, the amendment proposes to: exempt development within an underground utility district from the requirement to install utilities underground where 75 percent of the developed lots within 1000 feet of the site have overhead utility service; require a minor use permit (rather than development plan) for exemptions to undergrounding requirements; and, clarify that undergrounding requirements apply to the area between the development and the power source, as well as the site itself.

Proposed Changes to Animal Keeping Standards: The amendment proposes to revise regulations for animal keeping facilities to exempt 4-H and Future Farmers of America projects, require commercial horse facilities to comply with Title 9 of the County Code, require commercial rabbit facilities to comply with standards for rabbit farms, and prohibit the keeping of zoo animals within residential suburban and residential single-family land use designations.



Other Miscellaneous Changes: The amendment also proposes to: eliminate square footage limitations for porches; exempt small areas of landscaping from water efficient landscaping requirements; replace existing standards for swimming pool fences with a reference to the Uniform Building Code; notify applicants for roadside stands of other applicable county, state, and federal standards; and, update the list of habitat types that have a moderate potential for wildland fire.

### **SUMMARY OF STAFF RECOMMENDATION**

Staff recommends that the Commission **approve** the Implementation Plan (IP) amendment **with modifications** needed to ensure that the amended IP will carry out provisions of the certified Land Use Plan (LUP) encouraging maximum public participation and protecting coastal resources. Specifically, to maximize public participation and fulfill the minimum notice and hearing requirements established in the California Coastal Commission Code of Regulations (Title 14, Division 5.5 of the California Code of Regulations), the suggested modifications:

- Clarify that actions on applications for appealable development, including actions on applications for extensions, are appealable to the Coastal Commission and subject to public hearing and noticing requirements;
- Clarify the circumstances under which the exhaustion of local appeals is not required in order to file an appeal with the Coastal Commission;
- Change the timeframe in which a public hearing on a Minor Use Permit may be requested so that a minimum 7 day notice period is provided for appealable development;
- Modify the procedures for Final Local Action Notices to ensure that such notices are not sent prior to the expiration of local appeal periods; include a description of appeal procedures; and, are sent for County actions on both appealable and non-appealable development.

To ensure that the sections of the CZLUO proposed for amendment carry out the coastal resource protection provisions of the certified Land Use Plan, the suggested modifications:

- Replace the reference to LCP maps with a reference to the LCP's Rules of Interpretation for determining whether a project is within a Sensitive Resource Area. This clarifies that the location of development in relationship to sensitive resource areas must be determined in accordance with the actual location of the resource, rather than a depiction on a map.
- Update the standards for animal raising and keeping facilities to require all such facilities to include water quality protection measures and clarify that a coastal development permit is required for commercial horse keeping facilities.



## **ANALYSIS CRITERIA**

The relationship between the Coastal Act and a local government's Local Coastal Program (LCP) can be described as a three-tiered hierarchy with the Coastal Act setting generally broad statewide policies. The Land Use Plan (LUP) portion of the LCP incorporates and refines Coastal Act policies for the local jurisdiction, giving local guidance as to the kinds, locations, and intensities of coastal development. The Implementation Plan (IP), or zoning portion of an LCP typically sets forth zone districts and site regulations which are the final refinement specifying how coastal development is to proceed on a particular parcel. The IP must be consistent with, and adequate to carry out, the policies of the LUP. The LUP must be consistent with the Coastal Act.

In this case, the proposed LCP amendment effects only the IP component of the San Luis Obispo County LCP. Thus the standard of review for the amendment is consistency with the policies of the LUP. In addition, since this amendment affects provisions of the LCP regarding public hearings and noticing, it also must comply with the minimum requirements established by the California Code of Regulations.

## **ADDITIONAL INFORMATION**

For further information about this report or the amendment process, please contact Steve Monowitz, Coastal Planner, at the Central Coast District Office of the Coastal Commission, 725 Front St., Suite 300, Santa Cruz, CA 95060; telephone number (831) 427-4863.

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## **I. STAFF RECOMMENDATION**

### **MOTIONS AND RESOLUTIONS**

The Commission needs to make two motions in order to act on this proposal:

### **IMPLEMENTATION PROGRAM AMENDMENT CERTIFICATION WITH SUGGESTED MODIFICATIONS**

**MOTION I:** *I move that the Commission reject Implementation Program amendment 1-01, Part B for San Luis Obispo County as submitted.*

### **STAFF RECOMMENDATION OF REJECTION:**

Staff recommends a **YES** vote. Passage of this motion will result in rejection of the Implementation Program amendment and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

### **RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:**

The Commission hereby denies certification of the Implementation Program amendment submitted for San Luis Obispo County and adopts the findings set forth below on grounds that the Implementation Program amendment as submitted is inconsistent with the land use plan. Certification of the Implementation Program amendment would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program amendment as submitted.

**MOTION II:** *I move that the Commission certify Implementation Program amendment 1-01: Part B for San Luis Obispo County if it is modified as suggested in this staff report.*

### **STAFF RECOMMENDATION:**

Staff recommends a **YES** vote. Passage of this motion will result in certification of the Implementation Program amendment with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

### **RESOLUTION TO CERTIFY THE IMPLEMENTATION PROGRAM AMENDMENT WITH SUGGESTED MODIFICATIONS:**



The Commission hereby certifies Implementation Program amendment Part B for San Luis Obispo County if modified as suggested below. The Commission hereby adopts the findings set forth below on grounds that the Implementation Program amendment with the suggested modifications is consistent with the land use plan. Certification of the Implementation Program amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

## II. SUGGESTED MODIFICATIONS

The Commission hereby suggests the following changes to the proposed Local Coastal Program amendment, which are necessary to make the requisite findings. If the local government accepts all of the suggested modifications within six months of Commission action, by formal resolution of the Board of Supervisors, the corresponding amendment portion will become effective upon Commission concurrence with the Executive Director finding that this has been properly accomplished.

**Note:** The entire text of Part B of the amendment submittal is attached to this report as Exhibit 1. Only those portions of the amendment submittal that are affected by the suggested modifications are repeated below. The changes proposed by the County to the LCP as currently certified are shown by single underlines for additions and ~~single strikeouts~~ for deletions. The Commission's suggested modifications to the amendment are shown with double underlines for additions and ~~double strikeouts~~ for deletions.

**Modification 1:** Clarify Section 1 to note that the amendment is to Section 23.01.042a(4) and supplement this ordinance to address the affect that a withdrawal of an appeal has on the effective date of the local permit:

- (4) ***Withdrawal of appeal – land use permits.** After an appeal on a land use permit has been filed, the appeal shall ~~not only~~ be withdrawn ~~except~~ with the consent of the appropriate ~~hearing body~~ Review Authority or by written request of the individual or group that generated the appeal. The date on which the appeal is withdrawn shall constitute the effective date of the permit and initiate the final action notice period established by Section 23.02.036.*

**Modification 2:** Modify and reorganize changes to 23.01.043b as follows:

- b. Exhaustion of local appeals required.** For action on coastal development\* permit applications that may be appealed to the Coastal Commission as set forth in subsection c of this section, an applicant or aggrieved party may appeal a county*



~~decision~~ action on a coastal development application ~~land use permit~~ to the Coastal Commission only after all possible local appeals pursuant to Section 23.01.042 have been exhausted. This limitation shall not apply to any circumstance identified in Section 13573 of Title 14 of the California Administrative Code of Regulations, ~~(where the County required a fee to process such appeal)~~, including:

- (1) A situation where an appellant was denied the right of appeal pursuant to Section 23.01.042 because county notice and hearing procedures for the action on the development did not comply with the provisions of Title 14, Division 5.5, Chapter 8, Subchapter 2 of the California Administrative Code of Regulations; or
- (2) An appeal of a county decision by two members of the Coastal Commission pursuant to Public Resources Code Section 30625. Provided, however, that notice of Commissioners appeals shall be transmitted to the Board of Supervisors pursuant to Title 14 of the California Administrative Code of Regulations Section 13573(b) and the appeal to the Coastal Commission may be suspended pending a decision of the merits of the appeal by the Board of Supervisors. If the 23.01.043 decision of the Board modifies or reverses the previous decision, the Commissioners shall be required to file a new appeal from that decision; or.
- (3) Where the County charges a fee for the filing or processing of appeals of actions on coastal development projects.

**Modification 3:** Modify changes to Section 23.01.043c as follows

- c. **Appealable development.** As set forth in Public Resources Code Section 30603(a), an action ~~a decision~~ by the county on a permit application for any of the following projects may be appealed to the Coastal Commission:

- (1) Developments approved between the ~~ocean-sea~~ and the first public road paralleling ~~to~~ the ~~ocean-sea~~, or within 300 feet of the inland extent of any beach ~~(or of the mean high tide line of the ocean-sea where there is no beach)~~, whichever is the greater distance, ~~as shown on the adopted post-certification appeals maps.~~
- (2) Approved developments not included in subsection c(1) of this section that are ~~proposed~~ to be located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff, ~~as shown on the adopted post-certification appeals maps.~~





- (3) *Developments approved in areas not ~~identified~~ included in subsections c(1) or c(2) ~~above~~ that are located in a Sensitive Coastal Resource Area ~~as defined in Chapter 23.11 of this title~~, which includes:*

...

*The procedures established by Section 23.01.041(c) (Rules of Interpretation) shall be used to resolve any questions regarding the location of development within a Sensitive Coastal Resource Area*

**Modification 4:** Clarify the noticing and hearing requirements established by Section 23.02.033b(4)(ii) and as follows:

- (ii) **Public Hearing.** *A public hearing on a Minor Use Permit shall occur only when a hearing is requested by the applicant or other interested person(s). Such request shall be made in writing to the Planning Director no later than ~~10~~ 7 days ~~after~~ before the date of the meeting specified in the public notice provided pursuant to subsections (i)(a) and (b) of this section or within 10 days from the date of the notice, whichever comes later. In the event a public hearing is requested, the Minor Use Permit shall be scheduled for a hearing on the date and time as defined in the public notice. The Director has the authority to continue an item to the next meeting date where there is a conflict with existing plans and ordinances, even where no public hearing has been requested. The applicant and any interested parties shall be notified of the continuance and notice of the continued hearing shall be provided in accordance with Section 23.01.060.*

**Modification 5:** Revise procedures for Final Action Notices on Minor Use Permits established in Section 23.02.033d as follows

- a. **Notice of Final Action.** *Within seven days of the administrative hearing, ~~or no sooner than 10 days after the date of the meeting specified in the public notice provided pursuant to subsections b(4)(i)(a) and (b) and the expiration of the time period for appeals to the Planning Commission or Board of Supervisors~~, the Director shall prepare a written Notice of Final Local Action. The Notice of Final Local Action shall include the Tentative Notice of Action described in subsection b(3) of this section and shall also describe any changes to the tentative action as a result of the administrative hearing (if held), including the final action itself. The notice of final action shall also include the findings or conditions of approval resulting from the hearing, a determination if the decision is appealable to the Coastal Commission, the procedures for appealing the local decision to the Coastal Commission (if applicable), and as well as noting the effective date of the Minor Use Permit. The notice shall be mailed to the applicant. ~~For projects that may be~~*



~~appealed and to the Coastal Commission.~~ <sup>4</sup>The notice shall be prepared and mailed so as to satisfy all applicable provisions of Section 23.02.036, and: ...

**Modification 6:** Update procedures for Final County Actions on Land Use Permits as follows:

***CZLUO Section 23.02.036 – Final County Action on Land Use Permits.***

*After the ~~hearing~~ Review Authority has acted on an application for a Plot Plan, Minor Use Permit or Development Plan, or an application to amend or extend a Plot Plan, Minor Use Permit or Development Plan, the requirements of this section apply*

- a. **Notice of Final County Action.** Within seven calendar days of county completing its review and meeting the requirements of subsection ~~b.~~ c. of this section, the county shall notify by first class mail the Coastal Commission and any persons who specifically requested notice of such action by submitting a self-addressed, stamped envelope to the county (or, where required, who paid the fee established by the County Fee Ordinance to receive such notice) of its action. Such notice shall include conditions of approval and written findings and the procedures for appeal of the county decision to the Coastal Commission.*
- b. **Notice of Failure to Act...***
- c. **Finality of County Action.** A county decision on an application for a ~~development land use permit~~ shall not be deemed final until:*
  - (1) The county decision on the application has been made and all required findings have been adopted, including specific factual findings supporting the legal conclusions that the proposed development is or is not in conformity with the certified Local Coastal Program and, where applicable, with the public access and recreation policies of Chapter 3 of the Coastal Act (these can be found in Section 23.04.420 of this title and Sections 30210 through 30224 of the Coastal Act); ~~and~~*
  - (2) When all county rights of appeal have been exhausted as set forth in Section 23.01.043b (Exhaustion of county appeals); i*
  - (3) For actions on Land Use Permits that are not appealable to the Coastal Commission under the standards of Section 23.01.043c, the Coastal Commission has received notice of Final County Action as required by parts a and b of this Section; and*
  - (4) For actions on Land Use Permits that are appealable to the Coastal Commission pursuant to Section 23.01.043c, the standards set forth in Section 23.02.039 have been satisfied.*



**Modification 7: Update Procedures for Permit Extensions*****23.02.050 - Extensions of Time for Land Use Permits.***

*When substantial site work (Section 23.02.042) on a project authorized by an approved land use permit has not occurred within the time limits set by Section 23.02.040, a maximum of three, 12-month extensions to the initial time limit may be granted as provided by this section. Extension requests shall be in writing and shall be filed with the Planning Department on or before the date of expiration of the land use permit or previous extension, together with the required filing fee. When an extension request has been filed, the permit shall be automatically extended until such time as the reviewing body has acted upon the extension request, provided that no construction shall take place and no construction permits shall be issued for a proposed project pursuant to Title 19 of this code until the extension has been approved. Notice of the application for extension shall be provided in accordance with Section 23.02.070 for non-appealable development, and with 23.01.060 for appealable development.*

***a. Initial extensions:*** *The Planning Director may grant two 12-month extensions to the time limit for any land use permit subject to the public hearing requirements established by Section 23.01.060 and final action noticing requirements established by Section 23.02.036a - c. The Planning Director shall grant an extension only after finding that the land use permit does not contain conditions prohibiting extension, and that:*

- (1) There have been no changes to the provisions of the Land Use Element or Land Use Ordinance applicable to the project since the approval of the land use permit; or*
- (2) There have been no changes in the character of the site or its surroundings that affect how the standards of the Land Use Element or Land Use Ordinance apply to the project; or*
- (3) There have been no changes to the capacities of community resources, including but not limited to water supply, sewage treatment or disposal facilities, roads or schools such that there is no longer sufficient remaining capacity to serve the project.*

*If the reviewing body, or the Coastal Commission on appeal, determines that changed circumstances exist that may affect the consistency of the development with the Local Coastal Program, then the extension request shall be denied.. Action on ~~Disapproval~~ of a requested extension by the Planning Director may be appealed to the Planning*



*Commission as set forth in Section 23.01.042 (Appeal) and to the Coastal Commission as set forth in Section 23.01.043 (Appeals to the Coastal Commission).*

**b. Third and final extension:** *The Planning Commission may grant one additional 12-month extension to an approved land use permit after the two initial extensions in accordance with the same notice, hearing, and appeal procedures required above, subject to the same findings and standards, provided that the Planning Commission makes the following additional findings:*

- (1) That substantial site work could not be completed as set forth in Section 23.02.042 because of circumstances beyond the control of the applicant; and*
- (2) The findings specified in Sections 23.02.050a(1), (2) and (3) above; and*
- (3) The findings that were required by Section 23.02.034c(4) to enable initial approval of the permit.*

*An approved land use permit shall become void after the expiration of the third extension (or after the expiration of any previous extension when a request for further extension has not been filed before expiration) where substantial site work has not first occurred pursuant to Section 23.02.042. No more than three extensions pursuant to this section shall be granted.*

**c. Land use permit required with a land division.** *For land use permits that are required in conjunction with a land division application, the advisory agency (the Planning Commission or Subdivision Review Board) may grant five 12-month time extensions to the time limit in accordance with the standards and procedures established by this Section. The planning department shall make a written recommendation in its staff report to the advisory agency concerning the extension request.*

**d. Time extensions on permits issued by the Coastal Commission.** *A time extension on a coastal development permit issued by the Coastal Commission shall only be granted by the Coastal Commission.*

...

**e. Notice of Final County Action.** *After all county rights of appeal have been exhausted as set forth in Section 23.01.043b (Exhaustion of local appeals required), the county shall provide notice of its action on the extension request in accordance with Section 23.02.036.*

**Modification 8:** Update permit requirements for animal raising and keeping activities as follows:



**23.08.046 - Animal Raising and Keeping (S-3):** *The raising or keeping of animals as either an incidental or principal use shall comply with the requirements of this section, except for pet stores (which are included under the Land Use Element definition of General Merchandise Stores and are instead subject to the provisions of Chapters 23.03 (Permit Requirements) and 23.04 (Site Design Standards) of this title). Certain specialized structures and facilities for animals (including animal hospitals, kennels, feed lots, fowl, poultry, hog or horse ranches) may also be subject to the requirements of Sections 23.08.041 (Agricultural Accessory Structures) or 23.08.052 (Specialized Animal Facilities), as applicable.*

...

**c. Permits and applications.**

**(1) Permit requirements.** ~~None, except otherwise~~ Permits required only as set forth in subsection f. of this section for specific types of animals, or as required by other provisions of this code for structures used to enclose or house animals; however, within sensitive resource areas, a Minor Use Permit shall be required for all new animal raising and keeping activities or facilities that are not associated with the production of agricultural products<sup>1</sup>. All animal raising activities in the unincorporated areas of San Luis Obispo County are subject to the requirements of this section regardless of whether a permit is required.

**(2) Application content.** *Where this section requires land use permit approval for a specific animal raising activity, the permit application shall include the following, in addition to all information required by Sections 23.02.030 (Plot Plan) et seq. of this title: [Amended 1992, Ord. 2591]*

*(i) Site drainage patterns and a statement of measures proposed by the applicant to avoid soil erosion and sedimentation caused by the keeping of animals.*

*(ii) The applicant's plans for animal waste disposal, including plans showing measures to confine runoff, adequate capacities to allow for proper wastewater disposal, and measures to prevent seepage to groundwater.*

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<sup>1</sup> As defined by Section 23.11.030 of this title, Agricultural Products are food and fiber in their raw unprocessed state (except for such field processing that may occur in conjunction with harvesting), and ornamental plant material.



***e. Maintenance and operational standards.***

- (1) ***Odor and vector control.*** All animal enclosures, including but not limited to pens, coops, cages and feed areas shall be maintained free from litter, garbage and the accumulation of manure, so as to discourage the proliferation of flies, other disease vectors and offensive odors. Sites shall be maintained in a neat and sanitary manner.
- (2) ***Erosion and sedimentation control.*** In no case shall an animal keeping operation be managed or maintained so as to produce sedimentation or polluted runoff on any public road, adjoining property, or in any drainage channel. In the event such sedimentation occurs, the keeping of animals outdoors on the site shall be deemed a nuisance and may be subject to abatement as set forth in Chapter 23.10 of this title (Enforcement).

...

***f. Specific animal standards. ...***

- (1) ***Animal husbandry projects.*** Notwithstanding the other provisions of this section except the limitations on use in subsection b. and the maintenance and operational standards of subsection e., the keeping or raising of a calf, horse, goat, sheep, hog, chickens, rabbits, birds or other animals as a 4-H or Future Farmers of America (FFA) project is subject to the following standards; ~~unless the site is of one acre or larger, in which case the animal project may be authorized subject to the provisions of subsections f(3) through f(11) for the specific type of animal:~~

...

- (9) ***Horses.*** The provisions of this subsection apply to the keeping of less than 30 of any member of the horse family, including but not limited to donkeys and mules. The keeping of 30 or more animals constitutes a horse ranch, and is instead subject to Section 23.08.052f. The keeping of horses for commercial purposes ~~are~~ is also subject to the provisions of Title 9 of the county code and land use permit approval.

...

- (11) ***Rabbits and rabbit farms.*** The raising or keeping of 20 or more rabbits or the raising and keeping of rabbits for commercial purposes is subject to the following standards. The raising or keeping of fewer than 20 rabbits not for



*commercial purposes is subject only to the requirements of subsections b. through e. of this section.*

- (i) Permit requirement. No permit requirement in the Agriculture or Rural Lands land use categories or on parcels of five acres or larger; Plot Plan approval elsewhere or where the raising and keeping is for commercial purposes.*

### III. RECOMMENDED FINDINGS

The San Luis Obispo County certified LCP is composed of seven parts: the Coastal Zone Land Use Ordinance, which is the Implementation Plan (IP) portion of the LCP; the Framework for Planning, the Coastal Plan Policies, and four Area Plans, which make up the Land Use Plan (LUP). The Commission approved the LUP with modifications on October 14, 1982, and the IP was approved as submitted on October 7, 1986. The County assumed permit-issuing authority on March 1, 1988.

#### A. Amendment Description

San Luis Obispo County is proposing to amend the implementation portion of its Local Coastal Program by revising the Coastal Zone Land Use Ordinance (“CZLUO”, Title 23 of the San Luis Obispo County Code). The amendment submittal contains a wide variety of changes to the CZLUO, many of which are minor changes that clarify existing standards and update cross-references (for example, references to the “California Administrative Code” have been changed to “California Code of Regulations”). Other components of the amendment result in substantive changes to, among other things, appeal procedures, noticing and hearing requirements, and requirements for animal keeping facilities. The changes proposed by the amendment are summarized in more detail on pages 1-3 of this report, and specifically listed below. A complete copy of the amendment submittal is attached to this report as Exhibit 1.

Changes to the CZLUO proposed by SLO LCPA 1-01 Part B:

1. Replace references to the “California Administrative Code” with references to the “California Code of Regulations”
2. Correct various cross-references.
3. Modify the appeal withdrawal process so that an appeal may be withdrawn without a public hearing.
4. Revise the appeal sections to clarify when a local decision on a project can be directly appealed to the Commission.
5. Clarify when development located within 300 feet of the beach is appealable to the Coastal Commission
6. Update the grounds for appeal to the Coastal Commission so they match the grounds established by Section 30603 of the Coastal Act.



7. Revise procedures for Minor Use Permits by changing the date by which a public hearing must be requested, providing the Planning Director with the authority to continue a hearing, and modifying the timeframe for noticing actions.
8. Increase the number of 12-month time extensions that can be granted for land use permits authorizing land divisions from three to five.
9. Modify parcel size standards for lots that dedicate a 10-foot wide strip of land for sidewalks with landscaping adjacent to the street, or for equestrian trail facilities, so that such area can be included in the calculation of the site's net site area.
10. Clarify that the same standards that apply to the construction of a guesthouse applies to the construction of a home office that is detached from the main residence.
11. Revise the front setback requirement of 25 feet for residential development so that a residence can be constructed within 15 feet in areas improved with sidewalks and landscaping.
12. Distinguish side setback standards for urban and rural corner lots to conform to the uniform fire code.
13. Clarify the definition and standards for Porches and remove the square footage limitations.
14. Clarify that the "Review Authority" (including but not limited to the Planning Commission) shall determine parking requirements for public safety facilities and wasted disposal sites.
15. Clarify that small areas of landscaping exempt from water efficient standards must still meet other landscaping requirements.
16. Delete current standards for swimming pool fencing and instead apply the Uniform Building Code.
17. Limit the height of exterior lighting to the height of the tallest building that *exists* on the site, rather than the height of the tallest building that would be *allowed*.
18. Require that street lighting be designed to minimize light pollution by preventing that light from going beyond the horizontal plane at which the fixture is directed.
19. Update the reference to the Uniform Building Code Section regarding nuisance and hazard abatement.
20. Modify curb, gutter, sidewalk provisions so that a current appraisal can be used as an alternative to the assessment roll in determining whether a proposed development will increase the property value by over 25% and therefore require the installation of curb, gutters and sidewalks.
21. Exempt development within an underground utility district from the requirement to install utilities underground where 75 percent of the developed lots within 1000 feet of the site have overhead utility service.
22. Clarify that the requirement to underground utilities may be applied to the area between the distribution source, as well as on the site itself, and should be coordinated with the utility service provider.
23. Require Minor Use Permit approval rather than Development Plan approval where the Review Authority exempts the requirement for utilities to be installed underground because physical conditions make the use of underground utilities impractical or unreasonable.





24. Require above ground storage facilities for flammable or combustible liquids to be setback less than 50 feet from the property line where allowed by the Uniform Fire or Building Code
25. Within Historic Site combining designations, allow the creation of smaller parcels than otherwise allowed by minimum lot size standards, where the creation of such a lot will support the restoration or continuation of a historic structure and provided that such parcels can only be transferred to a valid tax exempt charity and the historic structure will not be used for residential purposes.
26. Establish standards for home occupations conducted within a garage.
27. Recognize counseling services as an allowable home occupation.
28. Allow the construction of a detached home office as a residential accessory use subject to the same standards as those that apply to the construction of a detached guesthouse.
29. Update the reference to the noise standards contained in the ordinance that regulates animal keeping in urban areas and residential land use categories.
30. Delete the requirement that official 4-H or Future Farmers of America animal keeping projects on sites that are one acre or greater comply with the specific animal standards established by Section 23.08.046f3-11.
31. Require that the keeping of horses for commercial purposes comply with Title 9 of the County Code.
32. Require that the raising and keeping of rabbits for commercial purposes comply with the specific animal standards for rabbits and rabbit farms, including Plot Plan approval.
33. Prohibit the private keeping of zoo animals within the residential single-family land use designation.
34. Require larger setbacks for Agricultural Accessory Structures where necessary to carry out the Uniform Building Code.
35. Notify applicants for Roadside Stands that such projects must comply with standards established by the County Health Department and other applicable Federal and State statutes or regulations.
36. Include “extended reach facilities” as a type of development related to the petroleum refining industry that must comply with CZLUO standards, including the requirement for a Specific Plan
37. Clarify that a caretaker’s residence proposed in connection with an agricultural use must comply with standards for farm support quarters (including in areas outside of the agricultural land use designation).
38. Clarify that a caretaker’s residence is proposed in the Residential Rural and the Residential Suburban land use categories is subject to design standards for Secondary Dwellings.
39. Limit temporary dwellings within urban areas to recreational vehicles under 29 feet in length.
40. Update standards for sewer and water service for temporary dwellings and offices.
41. Prohibit the installation of a mobile home as a temporary dwelling where the permanent dwelling is proposed to be a mobile home.
42. Require that temporary dwellings and offices be located outside of required setbacks.
43. Limit occupancy of temporary dwellings to the property owner, permittee, contractor, or an employee of the owner or contractor directly related to the construction project.



44. Identify the following habitat types as having moderate potential for wildland fires: Interior Herbaceous, Coastal Salt Marsh, Desert Scrub, and Freshwater Marsh.

## **B. Ability of the Amended IP to Carry Out the Certified LUP**

The County is proposing a number of changes to the certified Implementation Plan (IP), which in order to approve, the Commission must find are consistent with, and adequate to carry out, the certified Land Use Plan. The two issue areas that are raised by the amendment in this regard are:

**Public Participation:** Whether the sections of the IP that are affected by the amendment and which address appeal procedures and public noticing and hearing requirements are adequate to carry out LUP provisions calling for maximum public participation and meet the minimum requirements established by the California Code of Regulations.

**Coastal Resource Protection:** Whether the sections of the IP affected by the amendment are adequate to carry out LUP provisions protecting coastal resources such as environmentally sensitive habitat areas.

### **1. Public Participation**

#### **a. LUP Provisions and Minimum Requirements of the California Code of Regulations**

A fundamental goal of the San Luis Obispo County certified LUP is to provide maximum opportunity for public participation in the planning process. The *Coastal Zone Framework for Planning* (Framework) includes 15 general goals that describe the purpose of the LCP and are to be furthered by LCP amendments and updates (page 1-3 of the Framework). General Goal 11.d on page 1-8 of the Framework states:

*Encourage maximum public participation in the decision making process when new plans are developed and when development is being reviewed.*

In order to carry out this LUP goal and meet the minimum state requirements for LCP implementation, the amendment must conform to Sections 13560-13572 of the California Code of Regulations, which state:

#### ***Article 17. Local Coastal Program Implementation Regulations***

##### ***§ 13560. Scope of Article.***

*The provisions of this Article shall constitute minimum standards of notice and hearing requirements for local governments and for the Commission in reviewing development projects after certification of a local coastal program.*



**§ 13563. Existing Local Procedures.**

*Existing local government notice and hearing procedures which are in substantial compliance with the provisions of these regulations may be reviewed and certified by the Commission as part of the local coastal program.*

**§ 13565. Notice of Appealable Developments.**

*Within ten (10) calendar days of accepting an application for an appealable coastal development permit (or local government equivalent) or at least seven (7) calendar days prior to the first public hearing on the development proposal, the local government shall provide notice by first class mail of pending application for appealable development. This notice shall be provided to each applicant, to all persons who have requested to be on the mailing list for that development project or for coastal decisions within the local jurisdiction, to all property owners and residents within 100 feet of the perimeter of the parcel on which the development is proposed and to the Commission. The notice shall contain the following information:*

- (1) a statement that the development is within the coastal zone;*
- (2) the date of filing of the application and the name of the applicant;*
- (3) the number assigned to the application;*
- (4) a description of the development and its proposed location;*
- (5) the date, time and place at which the application will be heard by the local governing body or hearing officer;*
- (6) a brief description of the general procedure of local government concerning the conduct of hearing and local actions;*
- (7) the system for local and Coastal Commission appeals, including any local fees required.*

**§ 13566. Public Hearing on Appealable Developments.**

*At least one public hearing shall be held on each application for an appealable development, thereby affording any persons the opportunity to appear at the hearing and inform the local government of the nature of their concerns regarding the project. Such hearing shall occur no earlier than seven (7) calendar*



*days following the mailing of the notice required in Section 13565. The public hearing may be conducted in accordance with existing local procedures or in any other manner reasonably calculated to give interested persons an opportunity to appear and present their viewpoints, either orally or in writing.*

...

**§ 13570. Finality of Local Government Action.**

*A local decision on an application for a development shall not be deemed complete until (1) the local decision on the application has been made and all required findings have been adopted, including specific factual findings supporting the legal conclusions that the proposed development is or is not in conformity with the certified local coastal program and, where applicable, with the public access and recreation policies of Chapter 3 of the Coastal Act, and (2) when all local rights of appeal have been exhausted as defined in Section 13573.*

**§ 13571. Final Local Government Action-Notice.**

*(a) Notice After Final Local Decision. (This section shall not apply to categorically excluded developments.) Within seven (7) calendar days of a local government completing its review and meeting the requirements of Section 13570, the local government shall notify by first class mail the Commission and any persons who specifically requested notice of such action by submitting a self-addressed, stamped envelope to the local government (or, where required, who paid a reasonable fee to receive such notice) of its action. Such notice shall include conditions of approval and written findings and the procedures for appeal of the local decision to the Coastal Commission.*

....

**§ 13573. Exhaustion of Local Appeals.**

*(a) An appellant shall be deemed to have exhausted local appeals for purposes of Section 13111 and shall be qualified as an aggrieved person where the appellant has pursued his or her appeal to the local appellate body (bodies) as required by the local government appeal procedures; except that exhaustion of all local appeals shall not be required if any of the following occur:*

- (1) The local government or jurisdiction require an appellant to appeal to more local appellate bodies than have been certified as appellate bodies*



*for permits in the coastal zone, in the implementation section of the Local Coastal Program.*

- (2) An appellant was denied the right of the initial local appeal by a local ordinance which restricts the class of persons who may appeal a local decision.*
- (3) An appellant was denied the right of local appeal because local notice and hearing procedures for the development did not comply with the provisions of this Article.*
- (4) The local government jurisdiction charges an appeal fee for the filing or processing of appeals.*

*(b) Where a project is appealed by any two (2) members of the Commission, there shall be no requirement of exhaustion of local appeals. Provided, however, that a local government may provide, by ordinance, that notice of commissioner appeals may be transmitted to the local appellate body (which considers appeals from the local body that rendered the final decision), and the appeal to the Commission may be suspended pending a decision on the merits by that local appellate body. If the decision of the local appellate body modifies or reverses the previous decision, the commissioners shall be required to file a new appeal from that decision.*

#### **b. Analysis of Amended IP's Ability to Carry Out LUP Public Participation Goals and Statewide LCP Implementation Requirements**

To ensure adequate opportunity for public participation in the review of applications of coastal development, the above regulations establish the minimum noticing, hearing, and appeal procedures that must be carried out by local governments in their implementation of LCP's. The Coastal Commission's recent *Periodic Review of the San Luis Obispo County LCP* (adopted by the Commission on June 12, 2001) identifies that the noticing, hearing and appeal procedures that are the subject of this amendment do not conform to the minimum standards required by the Code of Regulations<sup>2</sup>. As further detailed below, the submitted amendment does not fully resolve these inconsistencies, and must be modified in a manner that will carry out the applicable regulations and the LUP's goal of maximum public participation.

##### **1) Appeal Procedures.**

The opportunity to appeal certain actions on coastal development proposals is an important way in which the public participates in the development review process. A critical aspect of a well

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<sup>2</sup> Periodic Review recommendation 12.7



functioning appeals process is to ensure that the public has an accurate understanding of what can be appealed. The submitted amendment helps to clarify the appeals process by updating Section 23.01.043c of the CZLUO to state that County *actions* on permit applications for specific types of projects may be appealed to the Commission. This same clarification needs to be made in part b of the ordinance, and is called for by Suggested Modification 2 (see page 7).

Suggested Modification 2 also clarifies that County actions on appealable coastal development projects include, *but are not limited to*, County actions on land use permits. For example, County actions on lot line adjustments, conditional certificates of compliance, and grading permits are not processed as land use permit, but equate to actions on coastal development applications that in certain cases are appealable to the Coastal Commission. This necessary clarification is accomplished by replacing the term “land use permit” with the broader term “coastal development permit”.

In addition, Modification 2 clarifies the instances in which the exhaustion of local appeals is not required in order to file an appeal with the Coastal Commission in accordance with Section 13573 of the Code of Regulations. This modification is needed to prevent the ordinance from reading as if the *only* situation in which an appeal can be filed directly to the Coastal Commission (other than by two Commissioners) is where the County charges a fee for the appeal.

Finally, Modification 2 revises the description of the types of development for which County actions are appealable to the Coastal Commission. Currently, subsection c of 23.01.043 identifies County actions on development between the first public road and the ocean, or within a certain distance of the ocean, as being appealable to the Coastal Commission. To maintain consistency with the language contained in Section 30603 of the Coastal Act, suggested modification 2 replaces “ocean” with “sea”.

## **2) Public Hearing Procedures**

The opportunity for the public to comment on development proposals is also an important aspect of the public participation process. Section 13566 of the California Code of Regulations requires at least one public hearing to be held for actions on coastal development applications that can be appealed to the Coastal Commission. Section 13565 requires notice of such development to be provided to the interested parties at least seven days prior to the first public hearing.

As currently certified, the CZLUO requires that County actions on land use permits that can be appealed to the Coastal Commission be processed either as a Minor Use Permit (MUP) or Development Plan. A public hearing on a MUP is only conducted if requested by a member of the public. A public hearing is always conducted for applications that are processed as Development Plans.

The amendment proposes to modify the time period under which a public hearing on a MUP can be requested by requiring that the request be made seven days before the hearing. Currently, a public hearing must be requested within 10 days from the date of the public notice (CZLUO Section 23.02.033b(4)(ii)), and the notice must be provided at least 10 days prior to the hearing (CZLUO



Section 23.01.060). Assuming that it takes the notice 1-3 days to reach the interested parties by mail, this approach is consistent with the minimum 7 day noticing requirement established by the code of regulations.

However, the amendment proposes to revise the CZLUO to require that a hearing on a Minor Use Permit must be requested 7 days prior to the hearing. This change shortens the window to request a hearing from 7 days to 1-3 days; if the notice is sent 10 days prior to the hearing and takes 1-3 days to be received by mail, the recipient of the notice would only have 1-3 days to request a hearing. Suggested Modification 4 on pages 8-9 revises the amendment in a manner that provides interested parties with at least 7 days to request a hearing in accordance with Section 13566 of the California Code of Regulations. This modification also ensures that there will be proper noticing of continued hearings.

### **3) Noticing Procedures**

Of course, the public's opportunity to participate in hearings and the appeals process is dependent upon effective noticing. One of the important elements of the noticing required by the California Code of Regulations is the notification of final local actions. Notices of Final Local Actions (NOFA's), also often referred to as Final Local Action Notices (FLAN's), are used to initiate Coastal Commission appeal periods. NOFA's/FLAN's also provide the primary way in which the Commission can monitor local permitting activities and address any questions regarding the appealability of those decisions. In some instances, the proposed County provisions are inconsistent with the Commission's minimum notice requirements and can not be approved.

Suggested Modification 5 clarifies that the County must send the Commission a Notice of Final Action for all County actions on coastal development (appealable and non-appealable), and that such notice must include a description of the appeal process, as required by Section 13571 of the California Code of Regulations and Section 23.02.036a of the CZLUO. In accordance with Section 13570, this modification also incorporates language to ensure that Notices of Final Action are not provided prematurely (i.e., before the time period for appealing the decision at the local level has expired). Suggested Modification 1 ensures addresses the timing of such notice when appeals are withdrawn at the local level.

Similarly, Suggested Modification 6 brings the CZLUO into conformity with Sections 13570 and 13571 of the California Code of Regulations requiring local governments to provide notice of *all* final actions on coastal development applications, including actions on amendments and extensions, which in some cases can be appealed to the Commission. The added reference to Coastal Act access and recreation sections is needed because the sections of the CZLUO referenced by the ordinance do not contain the exact language of the Coastal Act.

### **4) Permit Extension Procedures**

The amendment includes changes to LCP procedures that would allow the county to grant five 12-month extensions for land use permits required in conjunction with land divisions rather than the maximum of three 12-month extensions currently allowed by CZLUO Section 23.02.050. This is



intended to bring the CZLUO into conformance with the provisions of the Subdivision Map Act regarding the extension of approved subdivisions.

The proposed increase in the number of extensions allowed for subdivision permits does not limit the IP's ability to carry out the certified LUP, provided that these and all other permit extensions are accompanied by an analysis of changed circumstances, and are processed in accordance with the minimum requirements established by the California Code of Regulations. There is no maximum number of extensions established by the California Code of Regulations.

As described above, compliance with Sections 13560 through 13574 of the California Code of Regulations establish minimum noticing and hearing requirements for the implementation of certified LCPs. These standards apply to *all* applications for coastal development; the only distinction made by these regulations is the method of noticing and hearing required for appealable, non-appealable, and categorically excluded development. Thus, applications to extend a coastal development permit constitute an application for coastal development, and are therefore subject to the minimum noticing and hearing procedures established by these sections. For example, a County action on an application to extend a coastal development permit that can be appealed to the Coastal Commission must be processed in accordance with the noticing and hearing provisions applicable to actions on appealable development. The proposed amendment does not fully reflect this requirement and must be denied.

Therefore, Suggested Modification 7 updates the LCP procedures for extensions to ensure that the noticing, hearing, and appeal provisions established by the California Code of Regulations are applied to applications for coastal development permit extensions. In addition, Suggested Modification 7 clarifies that the extension of land use permits required for land divisions is subject to the same procedures and standards (e.g., those regarding changed circumstances) that are required for the extension of all other types of coastal development permits. These changes will enable the public and the Commission to participate in the review of permit extensions, which, in turn will facilitate the sharing of information that should be applied to required analyses of changed circumstances.

### **c. Public Participation Conclusion**

As detailed above, the sections of the IP proposed for amendment do not carry out the goal of the certified LUP to maximize public participation, or the minimum noticing and hearing requirements established by the California Code of Regulations and thus, are not adequate to carry out the LCP. Specifically, the procedural sections of the CZLUO proposed for revision by the amendment do not accurately describe the appeals process; do not meet statewide requirements for public hearings; do not ensure effective notice of final local actions; and do not establish adequate standards and procedures for the extension of coastal development permits. Therefore, the amendment is denied as submitted and can only be approved if it is modified in the manner suggested.





## 2. Coastal Resources and Public Access and Recreation

### a. LUP Provisions for Coastal Resource Protection and Public Access and Recreation

As detailed in the following findings, the procedures for implementing the coastal development review process will influence the Implementation Plan's ability to effectively carry out the resource protection and public access and recreation objectives of the Land Use Plan. The provisions of the San Luis Obispo County certified LUP intended to protect coastal resources and enhance public access and recreation opportunities are far too numerous to cite in this report. However, some of the important LUP provisions that are implemented, in part, through the permit review procedures affected by this amendment include:

Policy 1 for Environmentally Sensitive Habitats:

#### ***Policy 1: Land Uses Within or Adjacent to Environmentally Sensitive Habitats***

*New Development within or adjacent to locations of environmentally sensitive habitats (within 100 feet unless sites further removed would significantly disrupt the habitat) shall not significantly disrupt the resource. Within an existing resource, only those uses dependent upon such resources shall be allowed within the area. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTIONS 23.07-178 OF THE COASTAL ZONE LAND USE ORDINANCE (CZLUO)]*

Policy 10 for Coastal Watersheds:

#### ***Policy 10: Drainage Provisions***

*Site design shall ensure that drainage does not increase erosion. This may be achieved either through on-site drainage retention, or conveyance to storm drains or suitable watercourses. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.05.034 OF THE CZLUO]*

Policy 2 for Visual and Scenic Resources:

#### ***Policy 2: Site Selection for New Development***

*Permitted development shall be sited so as to protect views to and along the ocean and scenic coastal areas. Wherever possible, site selection for new development is to emphasize locations not visible from major public view corridors. In particular, new development shall utilize slope created "pockets" to shield development and minimize visual intrusion. [THIS POLICY SHALL BE*



*IMPLEMENTED AS A STANDARD.]*

In terms of public access, Section 30604(c) of the Coastal Act requires every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone to include a specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 (commencing with Section 32000).

**b. Analysis of Amended IP's Ability to Carry Out LUP Provisions**

**1) Use of LCP Maps**

As detailed in the Coastal Commission's Periodic Review of the San Luis Obispo County Local Coastal Program (adopted July 12, 2001), LCP maps are often relied upon to determine the Commission's appeal jurisdiction and applicable development standards. For example, LUP provisions calling for the protection of coastal resources protection LCP ESHA Protection provisions have, in some instances, been interpreted as applying only to those areas that are mapped by the LCP as ESHA Combining Designations. This has posed problems where the maps do not accurately reflect on-the-ground resources, in terms of determining applicable standards for the development and whether action on the development is appealable to the Coastal Commission. Most importantly, the use of these maps rather than specific site information does not ensure that coastal resources will be protected consistent with the policies of the certified LUP.

Similar problems can arise where LCP implementation relies on the Coastal Commission's post-certification maps to determine whether a project is within the Commission's appeal jurisdiction and/or subject to conformance with Coastal Act access and recreation policies by virtue of a location between the first public road and the sea. Again, such determinations should be based on the actual location of the development in relationship to such features. As noted by the post-certification maps, questions that may arise regarding the precise location of such boundaries should be referred to the local government and/or the Executive Director of the Commission for clarification and information. Again, it is essential that these boundaries be determined in accordance with actual site conditions to provide accurate and consistent application of development standards and appeal procedures.

These issues are raised by the proposed amendment because it includes revisions to Section 23.01.043c of the CZLUO, which identifies when a development can be appealed to the Coastal Commission. Currently, Section 23.01.043c states that a county decision on a permit application can be appealed to the Coastal Commission if the development is located within a mapped Sensitive Coastal Resource Area mapped by the LCP, or if the development is located between the first public road and the sea, or within 300 feet of the sea or a beach these areas, as mapped by the adopted post-certification appeals maps.

Notwithstanding Section 23.01.043c's reference to LCP and post-certification maps, Section 23.01.041 of the CZLUO, entitled *Rules of Interpretation*, provides appropriate guidance for



addressing situations where such maps may not accurately reflect the actual location of coastal resources and features. Part c of that section states, in relevant part:

*c. Map boundaries and symbols: If questions arise about the location of any land use category or combining designation boundary, or the location of a proposed public facility, road alignment or other symbol or line on the official maps, the following procedures are to be used to resolve such questions in the event that planning area standards (Part II of the Land Use Element), do not define precise boundary or symbol location:*

...

*(3) Where a boundary is indicated as approximately following a physical feature such as a stream, drainage channel, topographic contour line, power line, railroad right-of-way, street or alleyway, the boundary location shall be determined by the Planning Department, based upon the character and exact location of the particular feature used as a boundary.*

To carry out LUP provisions that protect sensitive coastal resources and public access and recreation opportunities, and in accordance with LCP's Rules of Interpretation cited above, the location of sensitive coastal resources and other coastal features must be based on their actual location rather than a depiction on a map. Therefore, Suggested Modification 3 replaces Section 23.01.043c's reference to LCP and post-certification maps with a reference to the Rules of Interpretation. Suggested Modification 3 also deletes Section 23.01.043c3's reference to the definition of SRA contained in Section 23.11 is deleted because that definition refers back to Section 23.01.043c.

## **2) Animal Keeping Facilities:**

New animal raising and keeping activities represents a change in the intensity of the use of land and therefore constitutes development as defined by the Coastal Act and San Luis Obispo County LCP. Such development has the potential to impact coastal resources through the removal of sensitive vegetation, increasing erosion and the amount of sediments and pollutants contained within storm water runoff, and introducing structures within scenic view corridors. Permit requirements for such facilities, which are proposed for revision by the amendment, need to be updated in order for the IP to effectively implement the coastal resource protection policies of the LUP.

Currently, CZLUO Standards regulating animal keeping facilities require coastal development permits for animal raising and keeping in very limited circumstances. Experience has shown that some of the permit exemptions for animal raising and keeping have resulted in adverse impacts to coastal resources. A good example of this is the loss of sensitive coastal scrub and maritime chaparral associated with the expansion of horse keeping activities in the Sea Horse Lane area of southern Los Osos, most of which has occurred without coastal development permit review. Thus, the coastal permit exemption provisions of the proposed amendment can not be certified as



submitted. The amendment can only be approved with suggested modification 8, which requires a coastal development permit for the commercial keeping of horses.

More broadly, Suggested Modification 8 requires a coastal development permit for all new animal raising and keeping activities or facilities, other than those associated with the production of agricultural products<sup>3</sup>, when such activities or facilities are proposed within sensitive resource areas. The exemption for agricultural activities is provided to avoid requirements that would limit the productivity of agricultural lands inconsistent with LUP objectives. As discussed in the Periodic Review of the San Luis Obispo County LCP, there are many educational programs in place that support farmers in their efforts conduct agricultural activities in an environmentally sustainable manner. Further coordination with such programs, rather than additional permit requirements, will be used to ensure that animal keeping facilities associated with agricultural operations carry out LUP coastal resource protection objectives.

Concerns regarding the impact of non-agricultural animal facility development on coastal water quality is addressed by adding a requirement that permit applications for such development include plans showing measure to confine runoff and prevent seepage of wastewater to groundwater. Suggested Modification 8 also supplements the performance standards applicable to all animal keeping operations, regardless of permit requirements, to require that they be managed and maintained in a manner the prevents the discharge of polluted runoff.

### **c. Resource Protection Conclusion**

As discussed above, the sections of the IP proposed for amendment do not effectively carry out the resource protection provisions of the certified LUP. Specifically, the section regarding appealable development emphasizes the use of maps rather than actual site characteristics, which can lead to inaccurate determinations of appeal jurisdictions and applicable standards. In addition, the standards for animal keeping facilities do not contain adequate provisions for the protection of environmentally sensitive habitat areas and coastal water quality. As a result, the amendment is denied as submitted and can be approved only if modified as suggested.

### **C. Other Aspects of the Amendment**

As described on pages 1 – 3 and 14-16 of this staff report, the submitted amendment contains a wide variety of changes to the CZLUO, including but not limited to the changes to procedures and animal keeping standards addressed above. The other aspects of the amendment adequately carry out the provisions of the certified LUP as further discussed below.

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<sup>3</sup> The CZLUO defines agricultural products as food and fiber in their raw unprocessed state and ornamental plant material.



### **1. Changes to Parcel Size Standards.**

Parcel size standards are critical elements to an LCP because they provide the primary way in which the density and intensity of future development is regulated. Parcel size standards play an important role in the protection of coastal agriculture and sensitive habitats, and in managing development to that which can be sustained by an areas public service and resource capacities.

The amendment proposes to change the way in which net parcel size is measured by including portions of the parcel that are dedicated for sidewalks and landscaping or equestrian trails. This is a minor revision in the way in which parcel sizes are calculated, primarily within urban and village areas, and will not have a significant affect on overall parcel sizes. Thus, the amended ordinance remains adequate to carry out the resource protection provisions of the LUP.

The amendment also proposes to exempt the creation of new parcels intended to protect historic structures from minimum parcel size standards. This change will enhance the CZLUO's ability to carry out the provisions of the LUP protecting special communities and small scale neighborhoods because it provides a more flexible way in which historical structures can be protected. The submitted language contains adequate safeguards to ensure that the exemption from parcel size standards can only be applied to genuine historical preservation efforts, and therefore retains the IP's ability to effectively carry out the LUP.

### **2. Proposed Changes to Standards for Accessory Uses.**

The amendment proposes to update standards for structures and uses that are accessory to the primary use of the site, including home offices and occupations, caretaker units, and temporary dwellings and offices. With respect to home offices and occupations, the amendment proposes to incorporate new provisions that: allow the construction of detached home offices, provided that such structures comply with the standards for guesthouses; establish standards for home occupations conducted within a garage; and, recognize counseling services an allowable home occupation. With respect to caretaker units, the amendment proposes to include standards that: clarify caretaker units associated with agricultural uses must comply with standards for farm support quarters; and, require caretaker units within Residential Rural and Residential Suburban land use designations to comply with standards for secondary dwellings. Finally, with respect to temporary residences and offices (i.e., temporary structures that enable residents and contractors to remain on site during construction of an approved development), the amendment proposes to incorporate new standards that: limit temporary dwellings within urban areas to recreational vehicles with a maximum length of 29 feet; ensure adequate on-site or municipal water and sewer service; require compliance with setback standards; and, limit occupancy to the property owner, permittee, contractor, or employee directly related to the approved construction project.

The proposed changes clarify existing regulations regarding accessory and temporary uses, and supplement these regulations in a way that responds to various problems and issues associated with



such uses. With these changes, the IP will be better able to implement the resource protection policies of the LUP with respect to accessory and temporary uses.

### **3. Proposed Changes to Setback Standards.**

The amendment proposes to revise setback requirements in a manner that: allows a front setback of 15 feet (rather than 25 feet) for new residences in areas with improved sidewalks and street landscaping; and, requires side setbacks for development on rural corner lots, agricultural accessory buildings, and ground storage facilities for flammable liquids to comply with uniform building and fire codes. As amended, these ordinances will be better able to carry out the access and hazard policies contained in the certified LUP.

### **4. Proposed Changes to Standards Regarding Lighting, Right of Way Improvements, and Utilities.**

The amendment proposes to revise standards for lighting in a manner that limits the height of exterior lighting to the tallest building that exists on the site (rather than the tallest building that could be allowed), and requires street lighting to minimize light pollution. This will result in greater protection of scenic coastal resources, consistent with visual and scenic resources policies of the LUP.

The amendment also proposes to revise standards requiring development that increases property value by over 25% to install curb, gutters, and sidewalks by allowing a current appraisal (rather than the assessment roll) to be used in the evaluation of property value. This change is intended to address situations where property values listed on the assessment roll may be artificially low due to Proposition 13. Although this may limit the ability of the County to require curb, gutter, and sidewalk improvements based on property values, it will not affect the County's ability to require access improvements where necessary to meet the public access and recreation policies of the LUP.

With respect to utilities, the amendment clarifies that the requirement to underground utilities applies to both the project site and the area between the project site and the source. This improves the ordinance's ability to protect scenic coastal resources consistent with the objectives of the LUP. However, the amendment also limits requirements for undergrounding utilities by exempting development within an underground utility district where 75 percent of the developed lots within 1000 feet of the site have overhead utility service. Additionally, the amendment reduces the level of permit review required for other types of underground utility exemptions by requiring a minor use permit rather than development plan. According to the County, these revisions have been proposed because deregulation of the utility industry has made property owners, rather than the utility company, responsible for getting power to a project site. Given the fact that exemptions can be granted only where 75 percent of the homes in the immediate vicinity have overhead utility services, and that a public hearing can be requested for all other exemptions, the amended ordinance remains adequate to carry out the visual and scenic resource protection policies of the LUP.



### **5. Other Miscellaneous Changes**

Other components of the amendment include changes that eliminate square footage limitations for porches; exempt small areas of landscaping from water efficient landscaping requirements; replace existing standards for swimming pool fences with a reference to the Uniform Building Code; notify applicants for roadside stands of other applicable county, state, and federal standards; and, update the list of habitat types that have a moderate potential for wildland fire. Of these “miscellaneous” changes, only those regarding porches and landscaping raise substantive issues.

In terms of porches, the elimination of square footage limitations and standard setback requirements have the potential to result in greater site disturbance and impacts to coastal resources. However, other elements of the CZLUO can be used to address this issue. In particular, ordinances requiring the protection of Sensitive Resource Areas and Environmentally Sensitive Habitat Areas, and establishing minimum setbacks from these areas, will maintain the IP’s ability to regulate porches in a manner that carries out the resource protection objectives of the LUP.

With respect to landscaping, the proposal to exempt projects that involve less than 2,500 square feet of irrigated landscaping with a turf area of less than 20% of the irrigated landscape area from water efficient landscaping standards is, according to the County submittal, consistent with the state’s water efficient model ordinance. This change may have a minor impact on water conservation, which is a crucial tool for the protection of coastal watersheds and groundwater basins (e.g., the Los Osos groundwater basin and the north coast creeks that provide water for Cambria). Nevertheless, other existing ordinances that will not be revised by the amendment are adequate to address this concern. In particular, CZLUO provisions requiring new development to demonstrate the availability of adequate public services precludes the approval of new development that can not be sustained by existing water supplies consistent with the protection of coastal resources.

### **D. California Environmentally Quality Act (CEQA)**

The Coastal Commission’s review and development process for Local Coastal Programs and amendments to them has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. Therefore, local governments are not required to undertake environmental analysis on LCP amendments, although the Commission can and does utilize any environmental information that the local government has developed. In this case the County approved a Negative Declaration for the amendment finding that it did not generate any significant environmental impacts. Modifications to the amendment have been suggested that will further assure that any adverse environmental impacts will not occur or will be mitigated. Approval of the amendment, as modified, will not have significant environmental effects for which feasible mitigation measures have not been employed consistent with the California Environmental Quality Act.

